

March 6, 2003

MEMORANDUM

TO: Larry Hartzke
Department of Health and Family Services

FROM: Janet R. Swandby
Lobbyist for the Association of Health Information Outsourcing Services (AHIOS)

RE: Charging for Costs related to the Retrieval of Medical Records

In outlining the conceptual approach to the Advisory Committee, you asked for comments on the relationship between the HIPAA and the effort to set uniform fees for copies of patient health care records in Wisconsin. In a separate memo, I have forwarded you specific comments regarding who is a patient's "personal representative" under HIPAA. This memo is to address the issue of whether costs associated with record retrieval should be included in the Wisconsin fees.

First, the final rule of HIPAA was published in August 2002. HIPAA requires that if a patient requests a copy of his/her medical record, a reasonable, cost-based, per page fee can be charged for that service. HIPAA specifically states that the cost of retrieval cannot be charged for patient requests.

HIPAA defines "patient" as the "person who received treatment". HIPAA defines "personal representative" as only the parents/guardians of minors, or administrators of the estates of deceased persons. There is no question that "authorization" to request a copy of a patient's records is not covered by the HIPAA guidelines.

Clearly, under HIPAA, requests from attorneys, insurance companies, or other third-parties are not included in the "reasonable, cost-based, per page fee" required for patient requests.

The uniform fee in Wisconsin must include the cost of retrieval because it is a major component of the time and effort involved in providing a duplicate copy of a patient health care record. A flow chart showing all of the steps involved in fulfilling a request for a copy has already been provided to you.

Many states have already set uniform fees for what can be charged third parties for duplicate copies of medical records. Under the HIPAA guidelines, what can be charged patients for copies in those states is the "per page charge". A "retrieval" or "search" fee is still applicable for third party requests.

I hope that you find this information useful. Please contact me if you have any questions.

JRS/